

Claim 36 (currently amended)

36. An integral disposable elasticized absorbent article having a longitudinal axis and a lateral axis, comprising:
- (a) a top sheet, a backsheet, a waist portion consisting of a front waist portion and a back waist portion, a crotch portion and a pair of spaced apart leg openings;
 - (b) an absorbent layer having a longitudinal axis and a horizontal axis disposed between said top sheet and said backsheet, said absorbent layer being defined by two opposed spaced apart longitudinal sides each having a proximal end and a distal end and a middle portion, and opposed spaced apart proximal and distal lateral sides;
 - (c) means for fastening said absorbent article around the waist portion of a wearer of the absorbent article; and
 - (d) two arched-shaped elasticized barrier layers[;] comprising a first generally concave elasticized barrier layer having one end attached between the middle portion and distal end of one of said longitudinal sides and a second end attached between the middle portion and distal end of the other one of said longitudinal sides [↙] thereby forming a first retaining enclosure between said first barrier layer and said topsheet; and a second generally convex elasticized barrier layer having one end attached between the middle portion and proximal end of one of said longitudinal sides and the other end attached between the middle portion and distal end of the other one of said longitudinal sides thereby forming a second retaining enclosure between said second barrier layer and said topsheet, and wherein said first and second arched-shaped elasticized barrier layers intersect each other to form a double barrier layer on said top sheet of said absorbent article.

ARGUMENT

Reconsideration is requested of the rejection of Claim 36 under 35 U.S.C. 112 in view of the present amendment of this claim and the following remarks.

Claim 36 has been amended subsequent to, and as discussed in a telephone interview with the Examiner on July 23, 2003. Amended claim 36 now recites, in paragraph (d), that the two arch-shaped elasticized barrier layers recited in the first line of this paragraph comprise a first generally concave elasticized barrier layer and a second generally convex elasticized barrier layer as defined therein. Paragraph (d) of the claim has also been amended at lines 13-14 to specify that said elasticized barrier layers intersect each other. This structural limitation is clearly shown in Figure 20 and the corresponding disclosure in the specification at page 18, line 15 to page 19, line 9. Therefore, this amendment does not constitute new matter.

In the final rejection, the Examiner asks, "Do the elasticized barrier layers intersect the topsheet, the longitudinal sides, each other, etc.?" Amended claim 36 clearly states that these barrier layers intersect each other.

The Examiner next asks "Does the applicant intend for the retaining enclosure to be positioned between the topsheet and the backsheet or between the barrier layer and the topsheet?" Claim 36 expressly recites, in paragraph (d), lines 5-7 and lines 11-13 that the first retaining enclosure is between the first barrier layer and the topsheet, and the second retaining enclosure is between the second barrier layer and the topsheet.

The Examiner further inquires "Does the applicant intend to claim 4 barrier layers or two arched-shaped elasticized barrier layers comprising a first and second elasticized barrier layer?" Claim 36 now specifically recites two arched-shaped elasticized barrier layers comprising a first generally concave elasticized barrier layer and a second generally convex elasticized barrier layer which intersect each other.

Claim 36 also stands rejected under 35 U.S.C. 102(b) over U.S. 4,753,646 (Enloe). It is submitted that in view of the present amendment of claim 36, and the clarification of the rejection under 35 U.S.C. 112, Enloe does not anticipate the invention defined by claim 36, nor can Enloe support a rejection under 35 U.S.C. 103.

In view of the foregoing amendment of claim 36 and the remarks herein, reconsideration of the rejection and a favorable action on claim 36 are requested.

Respectfully submitted,



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